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CrL.OP.No.18659 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Original Petition No.18659 of 2024

Mohamed Abusalihu

... Petitioner

Vs.

State Rep. By Inspector of Police,
R-11, Ramapuram Police Station,
Chennai.

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, praying to direct the respondent Police to de-freeze the petitioner's Bank Account Federal Bank Saving Account (Mobile Banking Service Application) in Account No.55550111369276, freeze by the respondent Police in Cr.No.105 of 2024.

For Petitioner : Mr.M.Ponmudi

For Respondent : Mr.K.M.D.Muhilan
Government Advocate (Crl. Side)



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ORDER

A complaint received from one Mr.Jayasamraj, came to be registered in Crime No.105 of 2024 on 08.03.2024 by the respondent Police.

2. Pursuant to that, the account of the petitioner, who was shown as accused, had been freezed. To defreeze the said account, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submits that there was a money transaction between the petitioner and Jayasamraj alleging that he had not paid the money. For recovery of the money, Jayasamraj has lodged a complaint before the respondent Police. Though it is purely a civil transaction, this money transaction between the friends and a substantial amount borrowed as a loan and repaid, the Police had registered the FIR and also intimated the banker of the petitioner to freeze the account. Contending that the Police has no authority to direct the bankers to freeze the account, present criminal original petition is filed.



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4. The learned Government Advocate (Crl. Side) submits that the Defacto Complainant had stated that he had been alluded by the petitioner herein to transfer the sum of Rs.27,000/- on 17.09.2023 and Rs.70,000/- on 06.11.2023 through Google Pay into the account of the petitioner, stating that the money is urgently needed to meet out the petitioner's wife medical expenses. Thereafter, when the complainant demanded the repayment of money, the petitioner evading the repayment, hence the petitioner has punishable under Sections 420 of IPC and 66D of the Information Technology Act.

5. A reading of the FIR clearly shows that the complainant Jayasamraj had accounted with the petitioner and had transferred money on his request and promised that it would be repaid shortly and there was some default in repayment. The reading of the complaint does not even disclose any cognizable offence. However, the Police has registered an FIR and taken up the matter for investigation. The I.O. without applying his mind has instructed the Bank of the petitioner to freeze the account, accordingly the Federal Bank has frozen the account on 14.03.2024. Till date, the petitioner has not been informed about the freezing of account and what for the account being frozen.



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6. A complaint of default in repayment of money will not *per se* attract offence under Sections 420 of IPC and 66D of the Information Technology Act, even if there is some element of ingredient to attract these offences. Certainly, it does not empower the I.O. to freeze the account of the suspected accused without being satisfied that the amount lying in the account of the petitioner is proceeds of crime. Indiscriminate exercise of the power to freeze the account by the Police Officials/Investigating Agency is condemnable. The petitioner herein under the guise of investigation, being put to sufferance for the past five months.

7. Hence, this Court directs the respondent to intimate the Federal Bank to defreeze the account of the petitioner forthwith. Accordingly, the Criminal Original Petition is allowed.

23.08.2024

jv

Index: Yes/No

Internet: Yes/No



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To

1. The Inspector of Police,
R-11, Ramapuram Police Station,
Chennai.
2. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.



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Dr.G.JAYACHANDRAN,J.

jv

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